

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department - Andhra Pradesh Scheduled Area Land Transfer Regulation 1959 - Khammam District - Revision Petition filed by Sri Annapureddy Hanimireddy @ Guru Hanimireddy S/o.Narisi Reddy, R/o.Morampally Banjar (V), Burgampadu (M), Khammam District against the orders of the Agent to Government in CMA No.8/2000 dt.31.12.2009 - Dismissed - Orders - Issued.

SOCIAL WELFARE (LTR.2) DEPARTMENT

G.O.MS.NO: 43

Dated:13.12.2012

Read the following:

1. From Sri Annpureddy Hanimireddy @ Guru Hanimireddy, S/o.Narisi Reddy through his counsel dt.02.01.2010.
2. Govt.Memo.No.798/LTR-2/2010, dt.24.06.2010.
3. From the Project Officer, ITDA, Bhadrachalam, Khammam District Rc.No.B/3953/09, dt.16.11.2012.
4. Govt.Lr.No.798/LTR-2/2010-3, dt.21.11.2012

ORDER:

Sri Annapureddy Hanimireddy @ Guru Hanimireddy(Non-Tribe) S/o.Narisi Reddy, R/o.Morampally Banjar (V), Burgampadu (M), Khammam District in the reference 1st read above has filed Revision Petition against the orders of the Agent to Government(Collector), Khammam in CMA No.8/2000 dated 31.12.2009, wherein the Agent to Government has dismissed the Appeal filed by the present Revision Petitioner in respect of the Petition Schedule land to an extent of Acs.4.16 gts in Sy.No.260 of Morampally Banjar, Burgampad Mandal. Consequent on the death of the Revision Petitioner on 31.10.2010, the petition filed by Sri Annapureddy china Narisi Reddy being legal heir of Annapureddy Hanimi Reddy @ Guru Hanimi Reddy in this case has been admitted.

2. The following are the principal contents urged in the Revision Petition:-
 - (i) The Agent to Government should have seen that the land was purchased by the petitioner from the father of the respondents 3 and 4 ie., Borra Narasaiah and Borra Adinarayana, S/o.Late Veraswamy in the year 1957 under sada sale deed. Ever since the appellant is in possession and enjoyment of the land. The counter affidavit was filed by the Agent to Government (District Collector) Khammam in W.P.No.6482 of 2001 before the Hon'ble High Court. The Agent to Government categorically admitted in para 5 of the counter affidavit the petitioner is in possession of the land according to the phanies during the crucial period 1961-62 and 1962-63. Accordingly the petitioner purchased the land before the Regulation came into effect.

(P.T.O.)

- (ii) The Agent to Government should have considered the judgment rendered by the full bench of our Hon'ble High Court reported in AIR 1982 AP 1 page, the Regulation has no retrospective effect and the transfers made before the Regulation are not contrary to the Provisions of the Regulation.
- (iii) The Agent grossly erred in observing that the petitioner is continuing in possession of the land by virtue of the litigation. This is not at all relevant for consideration of the matter. The authorities under the Regulation has to see whether the purchase and possession of the land was made prior to the Regulation or not as it is a settled principle of law laid down by the Hon'ble High Court and also the Supreme Court.
- (iv) The Agent to Government erred in the observing that the registration of the sale deed was made on 12.07.1974 and that the transaction is against the provisions of the Regulation. The registered deed refers to the earlier sale in the year 1957 and possession of the petitioner from the date of sale. The records also shows petitioner in possession earlier to the Regulation came into force. The Supreme Court confirming the orders of the full bench judgment of Hon'ble High Court also held the possession is the relevant aspect, as the Regulation is only prospective in nature.
- (v) The Agent to Government should have seen that Hon'ble High Court also held that under Section 2 (g) of the Regulation recognizes the transfer by agreement of sale. The subsequent registration is not material as the transaction was earlier to the Regulation came into effect ie., 1.12.1963.
- (vi) The other reasons given by the Agent to Government confirming the orders of the Special Deputy Collector is illegal and without any valid reasons.

3. The Project Officer, ITDA, Bhadrachalam, Khammam District who was consulted in the matter has sent parawise remarks and connected case records on the Revision Petition in the reference 3rd read above. Based on the same, the principal contentions in the Revision Petition are examined.

4. The suit schedule land in sy no 260 to an extent of ac 4.19 gts which includes potkharab land to an extent of ac 0.03 gts in Morampalli Banjar village of Burgampahad Mandal, Khammam district was said to be purchased by non-tribe Annapureddy Hanimireddy on 10.04.1957 through sada sale deed from the tribe Borra Veeraswamy with out obtaining prior permission from the Agent Government / Spl. Assistant to Government as per section 3 (b) of the A.P.S.A Land Transfer Regulation 1 of 1959, as amended by Regulation 1 of 1970, as the Morampalli Banjar village is scheduled village. The purchaser is Non tribe. Transaction between Tribe to Non Tribe and Non Tribe to Non Tribe are prohibited under the provisions of the LTR 1 of 1959 as amended by Regulation 1 of 1970. In this case the Special Deputy Collector, Tribal welfare Palvoncha had booked LTR case bearing LTR case No.271/72 and issued Notices. In order to escape from the provisions of LTR regulations 1 of 1959 the petitioner father manipulated/ created old sada sale agreement dated 10.04.1957 stated to be executed by Borra Veeraswamy, after 17 years Borra Veeraswamy executed

(Contd...3..)

registered sale deed dated 12.07.1974 in favour of petitioner father as such the transaction was between tribe to non tribe after 1.12.1963 there is no documentary evidence to substantiate in his title over suit scheduled land, after trial, the Special Deputy Collector (Tribal welfare), Palvoncha passed ejectment orders in LTR case no.271/1972, dt:27.09.1972 in favour of Tribal.

5. Further, the Petitioner filed before the Agent to Government, Khammam in I.A.No.33/2008 in CMA No.8/2008 on 31.12.2009. The Agent to Government Khammam passed orders in IA No.33/2008 in CMA No.8/2008 on 31.12.2009 confirming the orders passed by the Special Deputy Collector, Tribal welfare Palvoncha in LTR case No. 271/1972, dt: 27.09.1972 of SDC, Palvoncha, since the deceased tribal, Borra Veerswamy and his legal heirs Borra Adinarayana and Borra Narsaiah were deprived of their right over the suit scheduled land by way of prolonged litigations since 1972 onwards by the petitioner and his father. As such soon after passing of orders in I.A.No.33/2008, in CMA No.8/2008 on 31.12.2009 by the Agent to Government, Khammam confirming the orders passed by the Special Deputy Collector, Tribal Welfare, Palvoncha in LTR Case No.271 of 1992 dated 27.09.1972 and 18.06.1986. The District Collector and Agent to Government, Khammam while sending the order copy through Fax directed the Tahsildar Burgampahad to evict the Non Tribal petitioner or whoever in possession of suit scheduled land and to handover the above land to the tribals. As per the instructions of Agent to Government, Khammam, the then Tahsildar, Burgampahad handedover the physical possession of the land with standing crop to the legal heirs of Borra Veeraswamy under over of Panchanama on 01.01.2010.

6. After the action of the then Tahsildar, Burgampahad, the petitioner filed W.P.No.9/2010 before the Hon'ble High Court seeking direction not to interfere with the possession of the suit scheduled land pending disposal of Revision Petition before the Government. In turn, the Hon'ble High Court passed interim orders on 06.01.2010 in W.P No.09/2010 that parties are directed maintain status quo existing as on today for a period of six weeks. Further the Hon'ble High Court by orders dated 08.02.2010 disposing of the Writ Petition directed the Respondents to maintain status quo as on that day with regard to possession of the suit scheduled land till the disposal of Revision Petition and directed the Government to dispose of the Revision Petition filed by the Petitioner, as expeditiously as possible.

7. The Revision Petition has been called for hearing on 03.12.2012. The case has been heard. The Revision Petitioner/Counsel were present and filed written arguments.

8. In his Revision Petition/written arguments, the Revision Petitioner has mentioned the same contents which were filed before the lower courts and no fresh grounds are adduced by the Revision Petitioner, except denying the orders of the Agent to Government, Khammam District.

9. On perusal of the material papers made available in the file, it is observed that the suit land said to be purchased by the Revision Petitioner from Borra family (Tribe) under Sada Sale Deed during 1957 was registered during 1974, i.e., much after LTR 1/70 and hence the same is under violation of the LTR. It is also noticed that the S.D.C. (TW), Palvoncha (Bhadrachalam) has issued orders for eviction of the Revision Petitioner in the years 1972 and 1986, for violation of the LTR. However, it is evident from the record that the Revision Petitioner had been continuing in the suit land, by creating some

(P.T.O.)

:: 4 ::

litigation by obtaining some order or other from the Judiciary/Revenue Courts until the said land was handed over to the Tribals as per the orders of the Agent to Government, i.e. on 01/01/2010 and thus the legitimate right of the Tribes is being ignored.

10. Government after careful examination of the entire issue, is of the opinion that the Agent to Government, Khammam has rightly observed the case and passed the orders dt.31.12.2009 in CMA No.8/2000, which is in accordance with the Rules. Therefore Government hereby dispose off the Revision Petition along with the petition filed by the legal heir of the Revision Petitioner by upholding the orders of the Agent to Government, Khammam District in CMA No.8/2000, dt.31.12.09.

11. The Agent to Government, Khammam District is requested to take necessary action in the matter accordingly and acknowledge the receipt of the case records which are returned herewith.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr. A. VIDYASAGAR
PRINCIPAL SECRETARY TO GOVERNMENT (TW)

To:

The Collector & District Magistrate & Agent to Govt., Khammam district.

The Additional Agent to Government & Project Officer, ITDA

Bhadrachalam, Khammam.(w.e.)

Sri Annapureddy Hanimireddy @ Guru Hanimireddy S/o Narisi Reddy

R/o. Morampally Banjar (V), Burgampadu (M), Khammam district.

Copy to:

Sri Borra Veera swamy, Marrikunta (V), Post: Morampalli Banjar, Burgampad Mandal, Khammam district.

The G.P for Social Welfare, High Court of A.P.

The P.S to M (TW) for information/

The P.S to Principal Secretary to Government (TW)

SF/SC.

// FORWARDED:: BY ORDER //

SECTION OFFICER